UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/513,937	02/28/2000	Scott Sarnikowski	100.112US02	9449

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EXAMINER
JONES, PRENELL P

ART UNIT	PAPER NUMBER
2667	10

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _08 April 2004_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-21_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) _17-21_ is/are allowed.

6)☒ Claim(s) _1-16_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

Response to Arguments

1.   Applicant's arguments with respect to claims 1-21 have been considered

but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

3.   This application currently names joint inventors. In considering

patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that

the subject matter of the various claims was commonly owned at the time any

inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor

and invention dates of each claim that was not commonly owned at the time a

later invention was made in order for the examiner to consider the applicability of

35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35

U.S.C. 103(a).

Claim 1-3, 11-13, 15 and 16 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Ball et al in view of Vaid et al.

Regarding claims 1-3, 11-13, 15 and 16, Ball discloses (Abstract, Figs. 1, 3, 4,

6,14-16, 21, 29b, 30, 31, col. 3, line 55 thru col. 4, line 8, col. 5, line 26 thru col.

6, line 25, col. 32, line 36 thru col. 33, line 63) a service management system

wherein the communication architecture includes an enterprise system which

includes (Fig. 3) two policy servers, multiple Internet Service Provider (ISP)

(service delivery unit) coupled to a policy server, (col. 5, line 67 thru col. 6, line

25, col. 7, line 36-59) ISP cache, two policy servers associated with enterprise

network communicating via a virtual private network (VPN), plurality of end-end

units (LANs), plurality of ports wherein ports are used as interfaces for end units

and host/Internet/WAN, bandwidth usage (bandwidth monitored) is considered by

ISPs, (col. 14, line 18-36) MAC ID is predefined in network interface cards (NIC)

which is an interface to WAN/Internet, and it is known in the art that a

communication device consist of data ports and network ports for communicating

between other devices.   Ball is silent on policy for allocating bandwidth. In

analogous art, Vaid discloses (Figs. 4-7 & 16-18, col. 11, line 56 thru col. 12, line

10, col. 14, line 33 thru col. 15, line 67) internet service provider (ISP) (service

delivery) associated with servers for the purpose of implementing traffic policies,

ISP provides services (allocate bandwidth) by Internet link and (col. 13, line 1-7)

Internet is used to allocate bandwidth, plurality LANs/WAN, (col. 17, line 66 thru

col. 18, line 15, Fig. 9A) plurality user interfaces, (col. 22, line 50 thru col. 25, line

21) distributed bandwidth management associated with policy based approach,

(col. 25, line 1-21, col. 28, line 8 thru col. 30, line 54) policy servers allocating

bandwidth for user maximum use against competing traffic associated with user

requirements, Internet service provider is communicated by policy server which

communicates bandwidth requirement, (Fig. 16, col. 24, line 3-46) router coupled

between data port of ISP and LANs (col. 7, line 7-50) ISP is connected to

Ethernet based LANs, (col. 9, line 16-63, Fig. 2) network interface, and it is

inherent that a delivery unit consist of a data port for communicating data.

Therefore, it would have been obvious to one of ordinary skill in the art at the

time of the invention to have been motivated to implement a service provider

allocating bandwidth to users based on policies stored on policy server as taught

by Vaid with the teachings of Ball for the purpose of meeting individual users

needs/requirements without monopolizing bandwidth and managing bandwidth

usage.

Regarding claims 4-6, Ball discloses (Abstract, Figs. 1, 3, 4, 14, 29b, 30, 31, col.

3, line 55 thru col. 4, line 8, col. 5, line 26 thru col. 6, line 25, col. 32, line 36 thru

col. 33, line 63) a service management system wherein the communication

architecture includes an enterprise system which includes (Fig. 3) two policy

servers, multiple Internet Service Provider (ISP) (service delivery unit) coupled to

a policy server, (col. 5, line 67 thru col. 6, line 25, col. 7, line 36-59) ISP cache,

two policy servers associated with enterprise network communicating via a virtual

private network (VPN).

Regarding claim 7, as indicated above, Ball discloses (Abstract, Figs. 1, 3, 4, 14,

29b, 30, 31, col. 3, line 55 thru col. 4, line 8, col. 5, line 26 thru col. 6, line 25, col.

32, line 36 thru col. 33, line 63) a service management system wherein the communication architecture includes an enterprise system which includes (Fig. 3) two policy servers, multiple Internet Service Provider (ISP) (service delivery unit) coupled to a policy server, (col. 5, line 67 thru col. 6, line 25, col. 7, line 36-59) ISP cache, two policy servers associated with enterprise network communicating via a virtual private network (VPN), and (col. 12, line 43-55, col. 29, line 24-50) VPN consist of security attributes.

Regarding claims 8-10, as indicated above, Vaid discloses (Figs. 4-7 & 16-18, col. 11, line 56 thru col. 12, line 10, col. 14, line 33 thru col. 15, line 67) internet service provider (ISP) (service delivery) associated with servers for the purpose of implementing traffic policies, ISP provides services (allocate bandwidth) by Internet link and (col. 13, line 1-7) Internet is used to allocate bandwidth, plurality LANs/WAN, (col. 17, line 66 thru col. 18, line 15, Fig. 9A) plurality user interfaces, (col. 22, line 50 thru col. 25, line 21) distributed bandwidth management associated with policy based approach, (col. 25, line 1-21, col. 28, line 8 thru col. 30, line 54) policy servers allocating bandwidth for user maximum use against competing traffic associated with user requirements, Internet service provider is communicated by policy server which communicates bandwidth requirement, (Fig. 16, col. 24, line 3-46) router coupled between data port of ISP and LANs (col. 7, line 7-50) ISP is connected to Ethernet based LANs, (col. 9, line 16-63, Fig. 2) network interface, and it is inherent that a delivery unit consist of a data port for communicating data. Vaid further discloses (col. 15, line 8 thru

col. 16, line 67) traffic polices that include specific requirements such as

bandwidth limitations, setting priorities, and ISP with routing features.

Allowable Subject Matter

Claims 17-21 are allowed over prior art.

The following is a statement of reasons for the indication of allowable

subject matter: Although the cited art, Mohaban et al, Vaid et al, Ball et al,

teaches policy based management wherein the architecture includes allocation of

network resources (bandwidth), plurality ISPs (service delivery), a computer

network that consist of a plurality of LANs interconnected by a plurality of network

devices, plurality end-stations, policy server, program instructions/policy stored

on a computer readable medium associated with the server, network interface

cards, establishing physical ports, ISP provides communication services (service

delivery) which is associated and coupled with a policy-based management

which in turn is associated with managing traffic flow, multiple ISPs located in

different locations providing communication services via world wide

network/WAN, ISP associated with servers for the purpose of implementing

traffic policies, ISP provides services (allocate bandwidth) by Internet link, policy

servers allocating bandwidth for user maximum use against competing Traffic

associated with user requirements, Internet service provider is communicated by

policy server which communicates bandwidth requirement, router coupled

between data port of ISP and LANs connected to Ethernet based LANs, network

interface, and it is inherent that a delivery unit consist of a data port for

communicating data, ISP cache, two policy servers associated with enterprise network communicating via a virtual private network (VPN) they fail to teach classifying the request and identifying global policies that relate to request.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prenell P. Jones whose telephone number is 703-305-0630. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 703-305-4378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Prenell P. Jones

June 27, 2004

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